FILED
NOV 14
CHARLES ELMORE CROPLEY
CLERK

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1941

No. 28

CLOVERLEAF BUTTER COMPANY,
Petitioner,

vs.

HAYGOOD PATERSON, AS COMMISSIONER OF AGRICULTURE AND INDUSTRIES OF THE STATE OF ALABAMA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

APPENDIX TO BRIEF FOR RESPONDENTS.

(Opinions of the Solicitor of the Department of Agriculture and Related Correspondence.)

UNITED STATES DEPARTMENT OF AGRICULTURE

Office of the Solicitor

Washington, D. C.

November 13, 1941.

Hon. Thomas S. Lawson,
Attorney General of Alabama,
Willard Hotel,
Washington, D. C.

DEAR MR. LAWSON:

With further reference to your communication relative to the Departmental construction placed upon the Renovated Butter Act of 1902 and the legislation supplementary thereto, I am herewith transmitting copies of the following which I believe will be of interest to you:

Opinion of Solicitor Francis G. Caffey of August 14, 1914, to the Bureau of Animal Industry.

Solicitor's Opinion No. 13706 dated March 12, 1935, to Mr. O. E. Reed, Chief, Bureau of Dairy Industry.

Solicitor's Opinion of November 25, 1935, No. 13917, to Mr. O. E. Reed, Chief, Bureau of Dairy Industry.

Memorandum for Mr. Mastin G. White from O. E. Reed, dated October 4, 1940.

Response to Mr. Reed's memorandum of October 4, 1940, signed by Mastin G. White, Solicitor, dated October 18, 1940.

Memorandum to Mastin G. White, Solicitor for the Department of Agriculture, from Ernest Kelly, Assistant Chief of Bureau of Dairy Industry re draft of bill to amend the act of May 9, 1902, dated July 22, 1941.

Reply to Assistant Chief Ernest Kelly's memorandum of July 22, 1941, signed by C. W. Boyle, Assistant Solicitor, dated August 15, 1941.

Sincerely yours,

MASTIN G. WHITE,
Solicitor.

August 14, 1914.

Bureau of Animal Industry:

Receipt is acknowledged of your letter of recent date, transmitting therewith correspondence relating to the condemnation of 1700 pounds of butter oil found in the melters of renovated butter factory No. 3, District of Iowa, (C. J. Walker, Sioux City, Iowa). You ask my opinion regarding the action to be taken by the inspectors of renovated butter factories when they find materials used in the manufacture of renovated butter which are filthy, decomposed, or putrid. You ask, further, for the authority to confiscate materials used in the manufacture of renovated butter and if such confiscation can take place only when the materials have been made into renovated butter and the finished product intended for, or in the course of, shipment from one State to another.

In reply, you are advised that section 5 of the Act of March 9, 1902, provides in part:

"* * * And the Secretary of Agriculture is hereby authorized and required to cause a rigid sanitary inspection to be made, at such times as he may deem proper or necessary, of all factories and storehouses where process or renovated butter is manufactured, packed, or prepared for market, and of the products thereof and materials going into the manufacture of the same. All process or renovated butter and the packages containing the same shall be marked with the words "Renovated Butter" or "Process Butter" and by such other marks, labels, or brands and in such manner as may be prescribed by the Secretary of Agriculture, and no process or renovated butter shall be shipped or transported from its place of manufacture into any other State or Territory or the District of Columbia, or to any foreign country, until it has been marked as provided in this section. The Secretary of Agriculture shall make all needful regulations for carrying this section into effect, and shall cause to be ascertained and reported from time to time the quantity and quality of process or renovated butter manufactured, and the character and the condition of the material from which it is made. And he shall also have power to ascertain whether or not materials used in the manufacture of said process or renovated butter are

deleterious to health or unwholesome in the finished product, and in case such deleterious or unwholesome materials are found to be used in the product intended for exportation or shipment he shall have power to confiscate the same. Any person, firm, or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment not less than one month nor more than six months, or by both said punishments, in the discretion of the court."

This section authorizes the Secretary of Agriculture to ascertain whether materials used in the manufacture of renovated butter are deleterious to health. It further authorizes the Secretary in case he finds deleterious materials in the finished product to confiscate the product containing deleterious materials if such product is intended for interstate or foreign movement, or if it is found in interstate or foreign commerce. No authority is given to confiscate the unwholesome materials, consequently, inspectors have no authority to confiscate unwholesome materials which they may find in factories and intended for use in the preparation or manufacture of renovated butter. If on examination of the finished product they find that it contains materials deleterious to health and further find that such product is intended for interstate or foreign movement, then they may confiscate the product. On the other hand, if the product is not moving in interstate or foreign commerce, or is not intended for interstate or foreign movement, then such product is not subject to confiscation under the statute.

I may also add that if the renovated butter containing any filthy, decomposed, or putrid animal or vegetable substance, is being shipped from one State, Territory, District, or Insular Possession, to another, for sale, or having been transported, remains unloaded, unsold, or in original unbroken packages, it may be proceeded against in any United States District Court within the District where the same is found, and seized for condemnation by a process of libel for condemnation under Section 10 of the Food and Drugs Act.

FRANCIS G. CAFFEY,
Solicitor.

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OPINION 13706.

March 12, 1935.

Mr. O. E. Reed,
Chief, Bureau of Dairy Industry.

DEAR MR. REED:

Reference is made to your memoranda of February 26, 1935, October 5, and September 18, 1934, with respect to your powers under Section 5 of the Act of May 9, 1902 (32 Stat. 194; U. S. C. Title 26, Sec. 571), and regulations issued thereunder jointly by the Secretary of the Treasury and the Secretary of Agriculture in view of the opinions of this office of August 14, 1914, January 16, 1919, and December 6, 1920.

In the opinion of this office of August 14, 1914, it was held:

> This section authorizes the Secretary of Agriculture to ascertain whether materials used in the manufacture of renovated butter are deleterious to health. It further authorizes the Secretary in case he finds deleterious materials in the finished product to confiscate the product containing deleterious materials if such product is intended for interstate or foreign movement, or if it is found in interstate or foreign commerce. No authority is given to confiscate the unwholesome materials, consequently, inspectors have no authority to confiscate unwholesome materials which they may find in factories and intended for use in the preparation or manufacture of renovated butter. If on examination of the finished product they find that it contains materials deleterious to health and further find that such product is intended for interstate or foreign movement, then they may confiscate the product. On the other hand, if the product is not moving in interstate or foreign commerce, or is not intended for interstate or foreign movement, then such product is not subject to confiscation under the statute.

I may also add that if the renovated butter containing any filthy, decomposed, or putrid animal or vegetable substance, is being shipped from one State, Territory, District, or Insular Possession, to another, for sale, or having been transported, remains unloaded, unsold, or in original un-

broken packages, it may be proceeded against in any United States District Court within the District where the same is found, and seized for condemnation by a process of libel for condemnation under Section 10 of the Food and Drugs Act.

The opinion of this office of January 16, 1919, held that if the butter was made exclusively from milk or cream or both with or without common salt and with or without additional coloring matter, such butter would not be adulterated under the Food and Drugs Act. That opinion further held that butter made from cream unfit for use because of decomposition by the use of alkali or alkali with saltpeter or one or both of these with seration was adulterated under the Food and Drugs Act.

In the opinion of this office of December 6, 1930, it was held as follows:

In fact, the only effective control over these factories which is given to the Secretary of Agriculture is to require the marking of the product so as to identify it as process or renovated butter, and to confiscate such quantities of the finished product of the factories as may be found to be deleterious to health or unwholesome. And the only control given the Commissioner of Internal Revenue is such as is necessary for the collection of the factory, and per pound taxes provided by the acts hereinbefore referred to.

If, however, it should be found that any material used at this factory in the manufacture of renovated butter renders any part of the finished product deleterious to health or unwholesome, such product may be confiscated by the Department under the provisions of the renovated butter Act (32 Stat. 196). And, if any part of the product of this factory is found to be adulterated or misbranded in violation of the Act of Congress of June 30, 1906 (34 Stat. 768), such product, when offered for transportation in interstate commerce, may be confiscated under Section 10 of that Act, and the manufacturer would also be amenable to prosecution under Section 2 thereof.

In my opinion the only power your Bureau has in the premises is:

(1) To ascertain and report from time to time the quality and quantity of process or renovated butter manufactured,

and the character and condition of the material from which such butter is made;

(2) To ascertain whether the materials used in making such butter are deleterious and unwholesome in the finished product;

(3) If such product is intended for exportation or interstate commerce or in the course of exportation or of such commerce and is deleterious or unwholesome, the finished product may be confiscated by you;

(4) If the finished product set forth in (3) contains no deleterious or unwholesome material, to require the marking of such product so as to identify it as process or renovated butter.

(5) The power to make regulations;

(6) To report facts learned under (1) for such action as may be taken under the Federal Food and Drugs Act.

Very truly yours,

SETH THOMAS,
Solicitor.

OPINION 13917.

November 25, 1935.

Mr. O. E. Reed,
Chief, Bureau of Dairy Industry.

DEAR MR. REED:

The delay in answering your letter of April 15, 1935, has been occasioned by the pressure of the work in this office.

The questions raised with respect to the Processed or Renovated Butter Act (Act of May 9, 1902; U. S. C. Title 26, Sec. 588), and the Dairy Products Export Act (Act of May 23, 1908; U. S. C. Title 21, Sec. 132) are as follows:

1. Is this Bureau the solely responsible administrative agency of the Department in regard to this specific law? What position should this Bureau take in its future work in administering this specific law? In other words, should

any Federal or State laws passed since the Acts of August 2, 1886, or of May 9, 1902, be held to supersede or take the place of these special Acts of Congress pertaining solely to butter?

Your Bureau is the administrative agency of this Department in charge of the enforcement of that part of the Processed or Renovated Butter Act intrusted to this Department to administer.

Any Federal statute passed since the above Act not repealing the same directly or indirectly is cumulative with it.

Any State law that conflicts with the Federal statute is invalid. If it does not so conflict it is valid as far as the Processed and Renovated Butter Act is concerned.

The position your Bureau should take in administering this Act is a matter you should determine provided you do not exceed your powers under the statute.

2. Inasmuch as the Solicitor's Office has ruled that only the finished product of such factories is amenable to the law and provided the finished product does comply with the established tests and the law, can the raw material used (in this case packing-stock butter) be seized or condemned as long as the licensed factory is operating within existing laws and complying with all regulations of both this Department and the Bureau of Internal Revenue, and is producing a satisfactory finished product? Would the case of United States v. Nine Barrels of Butter (Federal Reporter No. 241, p. 499, April 9, 1917) be a relevant case?

Under the provisions of the Federal Food and Drugs Act, seizures may be made of food or any ingredient to be used in food that is adulterated or misbranded, and is in interstate commerce and remains unloaded, unsold, or in the original unbroken package. The case of United States v. Nine Barrels of Butter, 241 Fed. 499, was instituted under Section 10 of the Federal Food and Drugs Act.

3. Can a process-butter manufacturer ship packing stock or other butter, either melted or unmelted, which is unfit for food as such, to his factory with a distinctive label attached stating that such butter is not to be sold or used as

such, but is to be renovated in a licensed factory authorized by law and operating under government supervision?

Irrespective of any labeling placed on the product if the product can be used for food or as an ingredient of food, the article is subject to the Federal Food and Drugs Act when there is that jurisdiction set forth in my answer to your second question.

4. Is a duly licensed process-butter factory, so operating, subject to State inspection and shall State or Federal inspection have the greater power when the respective regulations conflict?

Such a factory is subject to the State laws provided such laws are not in conflict with the Federal statutes. If there is such a conflict, the Federal statutes prevail.

5. Inasmuch as the Solicitor's Office has ruled (December 18, 1931) that process-butter is not butter within the legal interpretation of the law, what action, if any, can this Bureau take against a manufacturer marketing a product containing less than 80 per cent butterfat?

On March 18, 1932, this office advised you that your Bureau can insist that renovated or processed butter contain 80 per cent of milk fat if you can prove by competent witnesses that such butter should contain at least 80 per cent of milk fat.

6. Can whole milk or cream be added to the "melted, clarified or refined" butter oil and in what amounts before the melted fat is again "made to resemble genuine butter" or can only skim milk be used? (Section 118.)

Normal quantities of skim milk, whole milk, or cream can be used if they are used in the process by which butter is melted, clarified, or refined and made to resemble genuine butter, provided the product is not adulterated butter.

7. Can a process-butter manufacturer use a mechanical deodorizer in making his product (a number of such machines utilizing the vacuum principle, are commercially available) provided he does not violate Section 101 of the regulations?

This question is answered in the affirmative.

8. What action, if any, can this Bureau take against a manufacturer using butter wrappers which have not been approved by the Department and which would have been disapproved had they first been submitted to this Bureau (Section 123-d)?

A manufacturer of processed butter who ships or transports from his place of manufacture in interstate commerce, or to any foreign country, any such butter unless such butter, or its package, bears the words "Renovated Butter" or "Processed Butter", and such other marks, labels, or brands, and in such manner, as prescribed by the Secretary of Agriculture, is guilty of a misdemeanor, as provided for in Section 5 of the Act of May 9, 1902 (U. S. C. Title 26, Sec. 578).

9. Since the Act of May 23, 1908 (35 Stat. 254) (U. S. C. Title 21, Sec. 132) is considered permanent legislation (July 13, 1933 ruling) should not such a contemplated revision include specific regulations governing all dairy products intended for export? On page 3 of Bureau of Animal Industry Order No. 97 is found the following: "Notice is accordingly given that the foregoing laws and rules and regulations * * * are appropriate and applicable and will *hereafter be applied* to dairy products in general, exported or offered for export from the United States." Would this notice be considered as making the inspection and certification of dairy products for export mandatory on the Department of Agriculture through this Bureau?

The notice quoted would, if taken alone, make inspection and certification by your Bureau mandatory. However, from paragraphs 1 and 2 on the same page, it is noted that Bureau of Animal Industry Order No. 91 and Bureau of Animal Industry Order No. 94 are to remain in full force and effect.

Bureau of Animal Industry Order No. 91 provides only for inspection and marking of dairy products for export when request is made for same by owners or shippers. Bureau of Animal Industry Order No. 94 provides only for inspection from time to time of factories, packing

houses, and places where renovated butter is prepared, and sets out labels to be used on butter. If continuous inspection is to be had both regulations will have to be amended.

10. Should the proposed revised regulations be based on the Meat Inspection Law of March 4, 1907? (U. S. Code Title 21, Chapter 4, Sec. 132 provides that *Sections 71 to 94*—the Meat Inspection Law—shall be deemed to include dairy products intended for exportation to any foreign country.)

Such parts of the Meat Inspection Act of March 4, 1907 (34 Stat. 1260) as are appropriate to ascertain the purity and quality of dairy products intended for export to a foreign country may be applied by the Secretary, under rules and regulations prescribed by him in enforcing the Act of May 23, 1908, 35 Stat. 254 (U. S. C. Title 21, Sec. 132).

That paragraph of the Meat Inspection Act requiring that no clearance shall be given any vessel, etc., is also applicable. That is to say, before a vessel, having aboard dairy products for export to a foreign country, can clear, the owner or shipper of such dairy products must have a certificate issued by an inspector of this Department setting forth that the dairy products comply with the Act of May 23, 1908, 35 Stat. 254 (U. S. C. Title 21, Sec. 132).

11. Both the Processed or Renovated Butter Law of May 9, 1902 (Sec. 5) and the Act of May 23, 1908, referred to above, are based on the Acts of March 3, 1891 as amended March 2, 1895. These earlier Acts (1891 and 1895) are *superseded* by Sections 71 to 94 (the Meat Inspection Law) (U. S. C. Title 21, Historical Note p. 178 and Historical Note under Section 579 of Title 26—Internal Revenue.) If these earlier Acts (1891-1895, as well as the Act of August 30, 1890 mentioned in Section 5 of Act of May 9, 1902) were all the meat inspection laws in force previous to the enactment of the Meat Inspection Acts of 1906 and 1907, and it is true that they were all superseded by the permanent Act of 1907, then should not the regulations governing the exportation of dairy products as well as

those governing the exportation and manufacture of processed or renovated butter be based on the latter Act?

Particularly in the case of processed or renovated butter would the above seem to be substantiated by the Act of August 10, 1912 (37 Stat., 273) which "provides that the sanitary provisions for slaughtering, meat canning, or similar establishments, as set forth in the Act of June thirtieth, nineteen hundred and six (Thirty-fourth Statutes, page six hundred and seventy-six), are hereby extended to cover renovated butter factories as defined in the Act of May ninth, nineteen hundred and two (Thirty-second Statutes, page one hundred and ninety-six), under such regulations as the Secretary of Agriculture may prescribe."

It must be remembered that the Processed or Renovated Butter Act is a special Act while the Dairy Products Export Act is general. The only parts of the Meat Inspection Act that apply to the Processed or Renovated Butter Act are those which are applicable to the subjects and purposes described in the Act of May 2, 1902 (U. S. C. Title 26, Sec. 578), viz: sanitary inspection, marking and labeling, confiscation, and also clearance certificate for a vessel when the butter is to be exported to a foreign country. The powers of the Secretary, it is to be noted, are different under the Dairy Products Export Act from those under the Processed or Renovated Butter Act. Under the former, as pointed out in answer to question 10, supra, those parts of the Meat Inspection Act for inspection and certification which are appropriate for the Secretary to ascertain the purity and quality of such products, may, by regulation, be prescribed by the Secretary, and the Secretary can cause them to be marked, etc., to secure their identity and also purity, quality and grade. Also, those parts of the Meat Inspection Act which deal with the clearance of vessels having aboard dairy products for foreign countries are applicable.

12. Processed or renovated butter has not been required to bear the Federal "Inspected and Passed" legend. Is this because the earlier laws upon which the Act of 1902 were based did not require it to be so labeled, or are there other reasons why such labeling is not required?

13. If, however, this legend was not required under the earlier laws but would now be required under the Meat Inspection Law, since the latter has superseded the earlier laws and are now applicable, would it not be within the province of the Secretary of Agriculture to rule that processed or renovated butter and other dairy products intended for export should be so labeled when inspected?

14. The Secretary of Agriculture has the power to make rules and regulations and to require that such marks, labels, stamps, or other devices as he may prescribe be used under all the earlier laws (1890-1891-1895-1902 and 1908). Assuming that in accord with the greater power given him under the Meat Inspection Law (presumably supersedes the earlier Acts) and by the power given him under a decision rendered by the Supreme Court (Houston et al. v. St. Louis Independent Packinking Co., U. S. Report No. 249) he should rule that processed or renovated butter and dairy products intended for export be labeled "Inspected and Passed"; that the factories making these products be licensed, and that other sections of the Meat Inspection Regulations relative to sanitation, ingredients, or materials; labeling, etc., be more fully applied for the more efficient enforcement of the Act to these products would not such a ruling give the Department, through this Bureau, more enforcement power than can be exercised under existing rulings? Would it be possible to include such new rulings in the proposed revision of present regulations? Would the application of the Meat Inspection Law to animal oleomargarine be comparable? The Oleomargarine Law was passed (1886) before the Meat Inspection Law. (1906)

There is no provision of law or any existing regulation requiring that renovated butter should bear the legend "Inspected and Passed", and the regulations now in force and effect indirectly show that it is not the intention of the Secretary that there should be such supervision as would be necessary if such legend is to be required. If such supervision is decided upon administratively, then there must be regulations promulgated to cover the same with the limitations set forth in answers 10 and 11.

Should you decide to issue new regulations under the above Acts, I will be glad to consider them upon submission of the same.

Very truly yours,

MASTIN G. WHITE
Solicitor.

c. c. to F. & D. Admin.

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UNITED STATES DEPARTMENT OF AGRICULTURE

Bureau of Dairy Industry

Washington, D. C.

October 4, 1940.

Memorandum for Mr. Mastin G. White,
Solicitor for the Department.

DEAR MR. WHITE:

The development and perfection during the past few years of new methods for analyzing and examining butter has resulted in increased regulatory activity and action against farm-made or "packing stock" butter intended for use in the manufacture of process or renovated butter. Certain State regulatory agencies and the Federal Food and Drug Administration have been particularly active.

The Bureau of Dairy Industry, which is the administrative agency designated by the Secretary of Agriculture to enforce the process or renovated butter act, is entirely sympathetic with the activities of these agencies, although the apparently limiting provisions of Section 5 of the Act of May 9, 1902 (32 Stat. 196), with which this Bureau is primarily concerned, as construed in opinions of your office, have, necessarily governed and guided this Bureau in its administrative policy in carrying out the provisions of the Act. Specifically, the opinion of August 14, 1914 relates to the condemnation by the Department of packing stock butter oil intended for use in the manufacture of process or renovated butter. This butter oil is similar in contamination to that

recently seized and condemned by above-cited agencies. This opinion and the contributing opinion of January 16, 1919, pertaining to the relationship between the process or renovated butter act, and other acts, have deterred this Bureau in its enforcement activities.

The fact that this Bureau has not taken any action paralleling that of other Federal agencies has raised the question of jurisdictional relationship between State and Federal and between general and specific laws in at least one case now pending in Court. We therefore request a reconsideration of the opinion of your office rendered August 14, 1914.

Yours very truly,

O. E. REED,
Chief of Bureau.

October 18, 1940.

OPINION No. 2829.

Memorandum for Mr. O. E. Reed,
Chief, Bureau of Dairy Industry.

DEAR MR. REED:

This acknowledges your memorandum of October 4, 1940, wherein you requested this office to reconsider the subject of its communication to your Bureau, dated August 14, 1914, regarding the authority of inspectors of *renovated-butter factories* to confiscate, under Section 5 of the Act of May 9, 1902 (32 Stat. 196; 26 U. S. C. 995), materials that are filthy, decomposed, or putrid, and that are intended for use in the manufacture of the product known as "renovated butter".

The contents of the communication of August 14, 1914, again have been considered. It is still our view that, although the language of the statute is not entirely clear, inspectors operating under the authority of Section 5 of the Act of May 9, 1902, can not properly confiscate materials which are intended for use in the manufacture of renovated butter but which have not, at the time of discovery, been used for such purpose. The authority to confiscate is limited

to the finished product, which can be confiscated if materials, which are deleterious to health or unwholesome in the finished product, were used in the manufacture of such product and if such product is intended for, or in the course of, interstate commerce.

Very truly yours,

MASTIN G. WHITE,
Solicitor.

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UNITED STATES DEPARTMENT OF AGRICULTURE

Bureau of Dairy Industry

Washington, D. C.

July 22, 1941.

To: Mastin G. White, Solicitor for the Department.

From: Ernest Kelly, Assistant Chief of Bureau.

Subject: Draft of Bill to Amend the Act of May 9, 1902 (Process or Renovated Butter Act)

Enclosed is draft of a bill prepared in this Bureau to amend the Act of May 9, 1902, commonly known as the process or renovated butter act.

The real purpose of this bill is to invest the Department with authority to inspect and to condemn ingredients intended for use in the manufacture of renovated butter if found to be unclean, filthy, putrid, decomposed, or otherwise unfit for use for the aforesaid purpose.

Under various interpretations of existing law, the Department has no authority whatever in the matter of controlling the materials which enter into the manufacture of renovated butter. In other words, if the butter, milk, butter oil, or any other ingredient entering into the manufacture of renovated butter is found to be unfit for such use, the Department is without authority of law to take any action unless unclean, filthy, putrid, or decomposed matter is found to exist in the finished product to an extent to render it deleterious to health or unwholesome.

It is axiomatic that despite the processes through which butter or butter oil pass during the course of manufacturing renovated butter, certain soluble materials unfit for human consumption cannot be removed and it is difficult if not impossible to detect them in the finished product. For example, a lot of butter may be infested with maggots and should be condemned for use in the manufacture of renovated butter. If not, in the melting process fat from these maggots will be mixed with the butterfat and the animal fat may be detected in the finished product only by chemical laboratory tests, if at all.

I shall appreciate it very much if you will give consideration to the enclosed draft and make any changes therein which you deem to be necessary. Mr. Charles S. Trimble of this Bureau will be available at almost any time to confer with the staff of your office concerning this matter.

ERNEST KELLY.

Enclosure.

Aug. 15, 1941.

Memorandum for Mr. O. E. Reed,
Chief, Bureau of Dairy Industry

DEAR MR. REED:

This is in reply to Assistant Chief Ernest Kelly's memorandum of July 22, 1941, with which a draft of a proposed bill to amend Section 5 of the Act of May 9, 1902 (32 Stat. 196), was submitted for consideration in this office.

It was stated in Mr. Kelly's memorandum that the real purpose of the proposed bill is to give the Department authority to inspect the materials from which process or renovated butter is manufactured and to condemn such materials as may be found to be unclean, unwholesome, unhealthful, or otherwise unfit for use in the manufacture of process or renovated butter.

The present statute makes no provision for an effective control over the ingredients from which process or renovated butter is manufactured. The Secretary is authorized

merely to ascertain whether materials used in its manufacture are deleterious to health or unwholesome in the finished product. It appears, therefore, that legislation such as that suggested in your letter is much needed.

The draft received with your letter has been rewritten, and the original and six white carbons of the same are attached.

Very truly yours,

C. W. Boyle,
Assistant Solicitor.

Attachments.

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